

Alternative Governance Provisions for
Maine Health Benefit Exchange Act

Alternative A: Independent Agency

§ 7003, subsection 1: *Exchange established.* The *Maine Health Benefit Exchange* is hereby established *as an independent executive agency*.

[Choose Alternative A, B, or C, below regarding Governing Board and ED Provisions]

§ 7008, subsection 2, paragraph Q:

Q. Keep an accurate accounting of all activities, receipts and expenditures and annually submit to the **[Governor] [Legislature]** a report concerning such accountings;

§ 7008, subsection 3:

3. *Budget.* The Board or its designee shall submit a budget for the administration and operation of the Exchange to the **[Governor][Legislature]**. The Board shall conduct an analysis of, and make recommendations to be included in the initial budget regarding, how the Exchange can be self-sustaining by 2015.

Alternative B: State Agency, Governing Board Appoints ED [As originally proposed]

§ 7004. *Board of Directors of Maine Health Benefit Exchange*

The Exchange shall be governed by a Board of Directors, as established in this section.

1. *Appointments.* The Board consists of 9 voting members and 2 *ex officio*, nonvoting members as follows:

- A. *The 9 voting members of the Board are appointed by the Governor subject to review by the joint standing committee of the Legislature having jurisdiction over health insurance matters, and confirmation by the Senate.*
- B. *The Governor shall appoint the voting members as follows:*
 - (1) *At least one member representing insurers;*
 - (2) *At least one member representing health insurance producers;*
 - (3) *At least one member representing health care providers;*
 - (4) *At least one member representing large employers (as such term is defined as of the date of appointment);*
 - (5) *At least one member representing small employers (as such term is defined as of the date of appointment);*

- (6) *At least one member representing consumers; and*
- (7) *At least one member representing federally recognized Indian tribes in the State.*

C. *The appointment of all voting members shall be made in accordance with applicable state conflicts of interest laws. The appointments of voting members shall also be made in accordance with the federal Affordable Care Act so that a majority of the voting members of the Board do not have conflicts of interest, as defined in regulations implementing the federal Affordable Care Act.*

D. *The 2 ex officio, nonvoting members of the Board are:*

- (1) *The Commissioner of Professional and Financial Regulation or the commissioner's designee; and*
- (2) *The Commissioner of the Department of Health and Human Services or the commissioner's designee.*

2. ***Qualifications of voting members.*** *A majority of the voting members of the Board must have relevant experience in the following areas:*

- A. *Health benefits administration;*
- B. *Health care finance;*
- C. *Health plan purchasing;*
- D. *Health care delivery system administration;*
- E. *Public health;*
- F. *Health policy issues related to the small group and individual markets and the uninsured; or*
- G. *Any additional areas of relevant experience identified in the federal Affordable Care Act.*

3. ***Terms of office.*** *Voting members of the Board serve 3-year terms. Any vacancy for an unexpired term must be filled in accordance with subsections 1 and 2. A member may serve until a replacement is appointed and qualified. Of the initial members appointed to the Board, 3 members serve an initial term of one year, 3 members serve an initial term of 2 years, and 3 members serve an initial term of 3 years in order to achieve a staggered set of terms. Voting members may serve up to 2 consecutive terms, not including any initial term of less than 3 years.*

4. ***Chair.*** *The Governor shall appoint one of the voting members of the Board as the chair of the Board.*

5. ***Quorum.*** *Five voting members of the Board constitute a quorum.*

6. **Affirmative vote.** *An affirmative vote of 5 members is required for any action taken by the Board.*

7. **Compensation.** *A member of the Board is entitled to compensation according to the provisions of Title 5, section 12004-G, subsection 14-H; a member must receive compensation whenever that member fulfills any Board duties in accordance with Board bylaws.*

8. **Meetings.** *The Board shall hold regular public governing meetings that are announced in advance. All meetings of the Board are public proceedings within the meaning of Title 1, chapter 13, subchapter 1.*

9. **Governance.** *The Board shall adopt rules in accordance with section 7008, subsection 4 establish and make publicly available a set of guiding governance principles that include ethics, conflict of interest standards, accountability and transparency standards, and disclosure of financial interest, including disclosure of financial interests by members of the Board, that meet the requirements of the federal Affordable Care Act and any applicable state law to the extent not inconsistent with the federal Affordable Care Act.*

§ 7005. Executive Director

1. **Appointed Position.** *The Executive Director shall be appointed by the Board [and subject to review by the joint standing committee of the Legislature having jurisdiction over banking and insurance and to confirmation by the Legislature]. The position of Executive Director is a major policy-influencing position as designated in Title 5, section 934.*

Question: Should the Executive Director of the Exchange, if appointed by the Board, be subject to review and confirmation by the Legislature?

2. Removal.

Alternative 1. *The Executive Director serves at the pleasure of the Board.*

Alternative 2. *The Executive Director shall hold office for [5 years] or until a successor has been appointed and has qualified. Any vacancy occurring shall be filled by appointment for the unexpired portion of the term. The Executive Director shall be removable for cause by the Board.*

Alternative 3. *The Executive Director shall hold office for [5 years] or until a successor has been appointed and has qualified. Any vacancy occurring shall be filled by appointment for the unexpired portion of the term. The Executive Director shall be removable by the Board for inefficiency, willful neglect of duty or malfeasance in office, [but only with the review and concurrence of the joint standing committee of the Legislature with jurisdiction over banking and insurance upon hearing in executive session, or by impeachment].*

3. ***Duties of Executive Director.*** *The Executive Director shall:*
- A. *Serve as the liaison between the Board and the Exchange and serve as secretary and treasurer to the Board;*
 - B. *Manage the Exchange's programs and services;*
 - C. *Employ in accordance with Civil Service Law or contract on behalf of the Exchange for professional and nonprofessional personnel or services;*
 - D. *Coordinate the purchase and use of all equipment and supplies within the Exchange;*
 - E. *Approve all accounts for salaries, per diems, allowable expenses of the Exchange or of any employee or consultant and expenses incidental to the operation of the Exchange; and*
 - F. *Perform other duties prescribed by the Board to carry out the functions of this chapter.*

Alternative C: State Agency, Governing Board, Governor Appoints ED

§ 7004. Board of Directors of Maine Health Benefit Exchange

The Exchange shall be governed by a Board of Directors, as established in this section.

1. ***Appointments.*** *The Board consists of 9 voting members and 2 ex officio, nonvoting members as follows:*

- A. *The 9 voting members of the Board are appointed by the Governor subject to review by the joint standing committee of the Legislature having jurisdiction over health insurance matters, and confirmation by the Senate.*
- B. *The Governor shall appoint the voting members as follows:*
 - (1) *At least one member representing insurers;*
 - (2) *At least one member representing health insurance producers;*
 - (3) *At least one member representing health care providers;*
 - (4) *At least one member representing large employers (as such term is defined as of the date of appointment);*
 - (5) *At least one member representing small employers (as such term is defined as of the date of appointment);*
 - (6) *At least one member representing consumers; and*
 - (7) *At least one member representing federally recognized Indian tribes in the State.*
- C. *The appointments of voting members shall be made in accordance with the federal Affordable Care Act so that a majority of the voting members of the Board do not have conflicts of interest, as defined in regulations implementing the federal Affordable Care Act.*
- D. *The 2 ex officio, nonvoting members of the Board are:*
 - (1) *The Commissioner of Professional and Financial Regulation or the commissioner's designee; and*
 - (2) *The Commissioner of the Department of Health and Human Services or the commissioner's designee.*

2. ***Qualifications of voting members.*** *A majority of the voting members of the Board must have relevant experience in the following areas:*

- A. *Health benefits administration;*
- B. *Health care finance;*

- C. *Health plan purchasing;*
- D. *Health care delivery system administration;*
- E. *Public health;*
- F. *Health policy issues related to the small group and individual markets and the uninsured; or*
- G. *Any additional areas of relevant experience identified in the federal Affordable Care Act.*

3. **Terms of office.** *Voting members of the Board serve 3-year terms. Any vacancy for an unexpired term must be filled in accordance with subsections 1 and 2. A member may serve until a replacement is appointed and qualified. Of the initial members appointed to the Board, 3 members serve an initial term of one year, 3 members serve an initial term of 2 years, and 3 members serve an initial term of 3 years in order to achieve a staggered set of terms. Voting members may serve up to 2 consecutive terms, not including any initial term of less than 3 years.*

4. **Chair.** *The Governor shall appoint one of the voting members of the Board as the chair of the Board.*

5. **Quorum.** *Five voting members of the Board constitute a quorum.*

6. **Affirmative vote.** *An affirmative vote of 5 members is required for any action taken by the Board.*

7. **Compensation.** *A member of the Board is entitled to compensation according to the provisions of Title 5, section 12004-G, subsection 14-H; a member must receive compensation whenever that member fulfills any Board duties in accordance with Board bylaws.*

8. **Meetings.** *The Board shall hold regular public governing meetings that are announced in advance. All meetings of the Board are public proceedings within the meaning of Title 1, chapter 13, subchapter 1.*

9. **Governance.** *The Board shall adopt rules in accordance with section 7008, subsection 4 establish and make publicly available a set of guiding governance principles that include ethics, conflict of interest standards, accountability and transparency standards, and disclosure of financial interest, including disclosure of financial interests by members of the Board, that meet the requirements of the federal Affordable Care Act and any applicable state law to the extent not inconsistent with the federal Affordable Care Act.*

§ 7005. Executive Director

1. **Appointment.** *The Executive Director shall be appointed by the Governor [and subject to review by the joint standing committee of the Legislature having jurisdiction over banking and insurance and to confirmation by the Legislature.] The position of Executive Director is a major policy-influencing position as designated in Title 5, section 934.*

Question: Should the Executive Director of the Exchange, if appointed by

the **Governor**, be subject to review and confirmation by the Legislature?

2. **Removal.**

Alternative 1. *The Executive Director serves at the pleasure of the **Governor**.*

Alternative 2. *The Executive Director shall hold office for [5 years] or until a successor has been appointed and has qualified. Any vacancy occurring shall be filled by appointment for the unexpired portion of the term. The Executive Director shall be removable for cause by impeachment or by address of the Governor to both branches of the Legislature, and Title 5, section 931, subsection 2, shall not apply.*

Alternative 3. *The Executive Director shall hold office for [5 years] or until a successor has been appointed and has qualified. Any vacancy occurring shall be filled by appointment for the unexpired portion of the term. The Executive Director shall be removable by the **Governor** for inefficiency, willful neglect of duty or malfeasance in office, [but only with the review and concurrence of the joint standing committee of the Legislature with jurisdiction over banking and insurance upon hearing in executive session, or by impeachment].*

3. **Duties of Executive Director.** *The Executive Director shall:*

- A. *Serve as the liaison between the Board and the Exchange and serve as secretary and treasurer to the Board;*
- B. *Manage the Exchange's programs and services;*
- C. *Employ in accordance with Civil Service Law or contract on behalf of the Exchange for professional and nonprofessional personnel or services;*
- D. *Coordinate the purchase and use of all equipment and supplies within the Exchange;*
- E. *Approve all accounts for salaries, per diems, allowable expenses of the Exchange or of any employee or consultant and expenses incidental to the operation of the Exchange; and*
- F. *Perform other duties prescribed by the Board to carry out the functions of this chapter.*

Alternative D: State Agency, Governing Board, Commissioner Appoints ED

§ 7004. Board of Directors of Maine Health Benefit Exchange

The Exchange shall be governed by a Board of Directors, as established in this section.

4. **Appointments.** *The Board consists of 9 voting members and 2 ex officio, nonvoting members as follows:*

- A. *The 9 voting members of the Board are appointed by the Governor subject to review by the joint standing committee of the Legislature having jurisdiction over health insurance matters, and confirmation by the Senate.*
- B. *The Governor shall appoint the voting members as follows:*
 - (1) *At least one member representing insurers;*
 - (2) *At least one member representing health insurance producers;*
 - (3) *At least one member representing health care providers;*
 - (4) *At least one member representing large employers (as such term is defined as of the date of appointment);*
 - (5) *At least one member representing small employers (as such term is defined as of the date of appointment);*
 - (6) *At least one member representing consumers; and*
 - (7) *At least one member representing federally recognized Indian tribes in the State.*
- C. *The appointments of voting members shall be made in accordance with the federal Affordable Care Act so that a majority of the voting members of the Board do not have conflicts of interest, as defined in regulations implementing the federal Affordable Care Act.*
- D. *The 2 ex officio, nonvoting members of the Board are:*
 - (1) *The Commissioner of Professional and Financial Regulation or the commissioner's designee; and*
 - (2) *The Commissioner of the Department of Health and Human Services or the commissioner's designee.*

5. **Qualifications of voting members.** *A majority of the voting members of the Board must have relevant experience in the following areas:*

- A. *Health benefits administration;*
- B. *Health care finance;*

- C. *Health plan purchasing;*
- D. *Health care delivery system administration;*
- E. *Public health;*
- F. *Health policy issues related to the small group and individual markets and the uninsured; or*
- G. *Any additional areas of relevant experience identified in the federal Affordable Care Act.*

6. **Terms of office.** *Voting members of the Board serve 3-year terms. Any vacancy for an unexpired term must be filled in accordance with subsections 1 and 2. A member may serve until a replacement is appointed and qualified. Of the initial members appointed to the Board, 3 members serve an initial term of one year, 3 members serve an initial term of 2 years, and 3 members serve an initial term of 3 years in order to achieve a staggered set of terms. Voting members may serve up to 2 consecutive terms, not including any initial term of less than 3 years.*

7. **Chair.** *The Governor shall appoint one of the voting members of the Board as the chair of the Board.*

8. **Quorum.** *Five voting members of the Board constitute a quorum.*

9. **Affirmative vote.** *An affirmative vote of 5 members is required for any action taken by the Board.*

10. **Compensation.** *A member of the Board is entitled to compensation according to the provisions of Title 5, section 12004-G, subsection 14-H; a member must receive compensation whenever that member fulfills any Board duties in accordance with Board bylaws.*

11. **Meetings.** *The Board shall hold regular public governing meetings that are announced in advance. All meetings of the Board are public proceedings within the meaning of Title 1, chapter 13, subchapter 1.*

12. **Governance.** *The Board shall adopt rules in accordance with section 7008, subsection 4 establish and make publicly available a set of guiding governance principles that include ethics, conflict of interest standards, accountability and transparency standards, and disclosure of financial interest, including disclosure of financial interests by members of the Board, that meet the requirements of the federal Affordable Care Act and any applicable state law to the extent not inconsistent with the federal Affordable Care Act.*

§ 7005. Executive Director

1. **Appointment.** *The Executive Director shall be appointed by the **Commissioner of Professional and Financial Regulation** [and subject to review by the joint standing committee of the Legislature having jurisdiction over banking and insurance and to confirmation by the Legislature.] The position of Executive Director is a major policy-influencing position as designated in Title 5, section 934.*

Question: Should the Executive Director of the Exchange, if appointed by the **Commissioner**, be subject to review and confirmation by the Legislature?

2. **Removal.**

Alternative 1. *The Executive Director serves at the pleasure of the **Commissioner of Professional and Financial Regulation**.*

Alternative 2. *The Executive Director shall hold office for [5 years] or until a successor has been appointed and has qualified. Any vacancy occurring shall be filled by appointment for the unexpired portion of the term. The Executive Director shall be removable for cause by the **Commissioner of Professional and Financial Regulation**.*

Alternative 3. *The Executive Director shall hold office for [5 years] or until a successor has been appointed and has qualified. Any vacancy occurring shall be filled by appointment for the unexpired portion of the term. The Executive Director shall be removable by the **Commissioner of Professional and Financial Regulation** for inefficiency, willful neglect of duty or malfeasance in office, [but only with the review and concurrence of the joint standing committee of the Legislature with jurisdiction over banking and insurance upon hearing in executive session, or by impeachment].*

3. **Duties of Executive Director.** *The Executive Director shall:*

- A. *Serve as the liaison between the Board and the Exchange and serve as secretary and treasurer to the Board;*
- B. *Manage the Exchange's programs and services;*
- C. *Employ in accordance with Civil Service Law or contract on behalf of the Exchange for professional and nonprofessional personnel or services;*
- D. *Coordinate the purchase and use of all equipment and supplies within the Exchange;*
- E. *Approve all accounts for salaries, per diems, allowable expenses of the Exchange or of any employee or consultant and expenses incidental to the operation of the Exchange; and*
- F. *Perform other duties prescribed by the Board to carry out the functions of this chapter.*

Alternative E: State Agency, Advisory Board, Governor Appoints ED

§ 7004. Executive Director

1. **Appointment.** *The Executive Director shall be appointed by the Governor [and subject to review by the joint standing committee of the Legislature having jurisdiction over banking and insurance and to confirmation by the Legislature.] The position of Executive Director is a major policy-influencing position as designated in Title 5, section 934.*

Question: Should the Executive Director of the Exchange, if appointed by the Governor, be subject to review and confirmation by the Legislature?

2. **Removal.**

Alternative 1. *The Executive Director serves at the pleasure of the Governor.*

Alternative 2. *The Executive Director shall hold office for [5 years] or until a successor has been appointed and has qualified. Any vacancy occurring shall be filled by appointment for the unexpired portion of the term. The Executive Director shall be removable for cause by impeachment or by address of the Governor to both branches of the Legislature, and Title 5, section 931, subsection 2, shall not apply.*

Alternative 3. *The Executive Director shall hold office for [5 years] or until a successor has been appointed and has qualified. Any vacancy occurring shall be filled by appointment for the unexpired portion of the term. The Executive Director shall be removable by the Governor for inefficiency, willful neglect of duty or malfeasance in office, [but only with the review and concurrence of the joint standing committee of the Legislature with jurisdiction over banking and insurance upon hearing in executive session, or by impeachment].*

3. **Duties.** *The Executive Director is the head of the Exchange. The Executive Director shall supervise and manage the Exchange in consultation with the Advisory Board.*

§ 7005. Advisory Board of Maine Health Benefit Exchange

4. **Duties.** *There shall be established an Advisory Board to advise the Executive Director and the Commissioner regarding issues related to the operation and administration of the Exchange.*

1. **Appointments.** *The Advisory Board consists of 9 voting members and 2 ex officio, nonvoting members as follows:*

- A. *The 9 voting members of the Advisory Board are appointed by the Governor subject to review by the joint standing committee of the Legislature having jurisdiction over health insurance matters, and confirmation by the Senate.*

Question: Should the Advisory Board, if appointed by the Governor, be subject to review and confirmation by the Legislature?

- B. *The Governor shall appoint the voting members as follows:*
- (1) *At least one member representing insurers;*
 - (2) *At least one member representing health insurance producers;*
 - (3) *At least one member representing health care providers;*
 - (4) *At least one member representing large employers (as such term is defined as of the date of appointment);*
 - (5) *At least one member representing small employers (as such term is defined as of the date of appointment);*
 - (6) *At least one member representing consumers; and*
 - (7) *At least one member representing federally recognized Indian tribes in the State.*
- C. *The appointments of voting members shall be made in accordance with the federal Affordable Care Act so that a majority of the voting members of the Advisory Board do not have conflicts of interest, as defined in regulations implementing the federal Affordable Care Act.*
- D. *The 2 ex officio, nonvoting members of the Advisory Board are:*
- (1) *The Commissioner of Professional and Financial Regulation or the commissioner's designee; and*
 - (2) *The Commissioner of the Department of Health and Human Services or the commissioner's designee.*

2. **Qualifications of voting members.** *A majority of the voting members of the Advisory Board must have relevant experience in the following areas:*

- A. *Health benefits administration;*
- B. *Health care finance;*
- C. *Health plan purchasing;*
- D. *Health care delivery system administration;*
- E. *Public health;*
- F. *Health policy issues related to the small group and individual markets and the uninsured; or*

G. *Any additional areas of relevant experience identified in the federal Affordable Care Act.*

3. **Terms of office.** *Voting members of the Advisory Board serve 3-year terms. Any vacancy for an unexpired term must be filled in accordance with subsections 1 and 2. A member may serve until a replacement is appointed and qualified. Of the initial members appointed to the Advisory Board, 3 members serve an initial term of one year, 3 members serve an initial term of 2 years, and 3 members serve an initial term of 3 years in order to achieve a staggered set of terms. Voting members may serve up to 2 consecutive terms, not including any initial term of less than 3 years.*

4. **Chair.** *The Governor shall appoint one of the voting members of the Advisory Board as the chair of the Advisory Board.*

5. **Quorum.** *Five voting members of the Advisory Board constitute a quorum.*

6. **Affirmative vote.** *An affirmative vote of 5 members is required for any action taken by the Advisory Board.*

7. **Compensation.** *A member of the Advisory Board is entitled to compensation according to the provisions of Title 5, section 12004-G, subsection 14-H; a member must receive compensation whenever that member fulfills any Advisory Board duties in accordance with Board bylaws.*

8. **Meetings.** *The Advisory Board shall hold regular public governing meetings that are announced in advance. All meetings of the Board are public proceedings within the meaning of Title 1, chapter 13, subchapter 1.*

9. **Governance.** *The Advisory Board shall adopt rules in accordance with section 7008, subsection 4 establish and make publicly available a set of guiding governance principles that include ethics, conflict of interest standards, accountability and transparency standards, and disclosure of financial interest, including disclosure of financial interests by members of the Advisory Board, that meet the requirements of the federal Affordable Care Act and any applicable state law to the extent not inconsistent with the federal Affordable Care Act.*

Alternative F: State Agency, Advisory Board, Commissioner Appoints ED

Executive Director

1. **Appointment.** *The Executive Director shall be appointed by the Commissioner of Professional and Financial Regulation [and subject to review by the joint standing committee of the Legislature having jurisdiction over banking and insurance and to confirmation by the Legislature.] The position of Executive Director is a major policy-influencing position as designated in Title 5, section 934.*

Question: Should the Executive Director of the Exchange, if appointed by the Commissioner, be subject to review and confirmation by the Legislature?

2. **Removal.**

Alternative 1. *The Executive Director serves at the pleasure of the Commissioner of Financial and Professional Regulation.*

Alternative 2. *The Executive Director shall hold office for [5 years] or until a successor has been appointed and has qualified. Any vacancy occurring shall be filled by appointment for the unexpired portion of the term. The Executive Director shall be removable for cause by impeachment or by address of the Governor to both branches of the Legislature, and Title 5, section 931, subsection 2, shall not apply.*

Alternative 3. *The Executive Director shall hold office for [5 years] or until a successor has been appointed and has qualified. Any vacancy occurring shall be filled by appointment for the unexpired portion of the term. The Executive Director shall be removable by the Commissioner of Professional and Financial Regulation for inefficiency, willful neglect of duty or malfeasance in office, [but only with the review and concurrence of the joint standing committee of the Legislature with jurisdiction over banking and insurance upon hearing in executive session, or by impeachment].*

3. **Duties.** *The Executive Director is the head of the Exchange. The Executive Director shall supervise and manage the Exchange in consultation with the Advisory Board.*

§ 7005. Advisory Board of Maine Health Benefit Exchange

1. **Duties.** *There shall be established an Advisory Board to advise the Executive Director and the Commissioner regarding issues related to the operation and administration of the Exchange.*

2. **Appointments.** *The Advisory Board consists of 9 voting members and 2 ex officio, nonvoting members as follows:*

A. *The 9 voting members of the Advisory Board are appointed by the Governor [subject to review by the joint standing committee of the*

Legislature] having jurisdiction over health insurance matters, and confirmation by the Senate.

Question: Should the Advisory Board, if appointed by the Governor, be subject to review and confirmation by the Legislature?

B. The Governor shall appoint the voting members as follows:

- (1) At least one member representing insurers;*
- (2) At least one member representing health insurance producers;*
- (3) At least one member representing health care providers;*
- (4) At least one member representing large employers (as such term is defined as of the date of appointment);*
- (5) At least one member representing small employers (as such term is defined as of the date of appointment);*
- (6) At least one member representing consumers; and*
- (7) At least one member representing federally recognized Indian tribes in the State.*

C. The appointments of voting members shall be made in accordance with the federal Affordable Care Act so that a majority of the voting members of the Advisory Board do not have conflicts of interest, as defined in regulations implementing the federal Affordable Care Act.

D. The 2 ex officio, nonvoting members of the Advisory Board are:

- (1) The Commissioner of Professional and Financial Regulation or the commissioner's designee; and*
- (2) The Commissioner of the Department of Health and Human Services or the commissioner's designee.*

3. Qualifications of voting members. *A majority of the voting members of the Advisory Board must have relevant experience in the following areas:*

- A. Health benefits administration;*
- B. Health care finance;*
- C. Health plan purchasing;*
- D. Health care delivery system administration;*
- E. Public health;*

- F. *Health policy issues related to the small group and individual markets and the uninsured; or*
- G. *Any additional areas of relevant experience identified in the federal Affordable Care Act.*

4. **Terms of office.** *Voting members of the Advisory Board serve 3-year terms. Any vacancy for an unexpired term must be filled in accordance with subsections 1 and 2. A member may serve until a replacement is appointed and qualified. Of the initial members appointed to the Advisory Board, 3 members serve an initial term of one year, 3 members serve an initial term of 2 years, and 3 members serve an initial term of 3 years in order to achieve a staggered set of terms. Voting members may serve up to 2 consecutive terms, not including any initial term of less than 3 years.*

5. **Chair.** *The Governor shall appoint one of the voting members of the Advisory Board as the chair of the Advisory Board.*

6. **Quorum.** *Five voting members of the Advisory Board constitute a quorum.*

7. **Affirmative vote.** *An affirmative vote of 5 members is required for any action taken by the Advisory Board.*

8. **Compensation.** *A member of the Advisory Board is entitled to compensation according to the provisions of Title 5, section 12004-G, subsection 14-H; a member must receive compensation whenever that member fulfills any Advisory Board duties in accordance with Board bylaws.*

9. **Meetings.** *The Advisory Board shall hold regular public governing meetings that are announced in advance. All meetings of the Board are public proceedings within the meaning of Title 1, chapter 13, subchapter 1.*

10. **Governance.** *The Advisory Board shall adopt rules in accordance with section 7008, subsection 4 establish and make publicly available a set of guiding governance principles that include ethics, conflict of interest standards, accountability and transparency standards, and disclosure of financial interest, including disclosure of financial interests by members of the Advisory Board, that meet the requirements of the federal Affordable Care Act and any applicable state law to the extent not inconsistent with the federal Affordable Care Act.*

Alternative G: State Agency, No Board, Governor Appoints ED

[Remove definition of Board from § 7002(1).]

[Modify reference to Board in § 7008(3) (requiring Board or designee to submit budget for Exchange to Commissioner of PFR.)]

[Remove current Sec. 2 of proposed bill - amending 5 M.R.S.A. § 12004-G, sub-§ 14-H.]

[Remove current § 7004 establishing the Board.]

[Renumber sections subsequent to current proposed § 7005 and amend all references thereto.]

§ 7004. Executive Director of Maine Health Benefit Exchange

1. **Duties.** *The Executive Director is the head of the Exchange.*

2. **Appointment.** *The Executive Director shall be appointed by the Governor [and subject to review by the joint standing committee of the Legislature having jurisdiction over banking and insurance and to confirmation by the Legislature.] The position of Executive Director is a major policy-influencing position as designated in Title 5, section 934.*

Question: Should the Executive Director of the Exchange, if appointed by the Governor, be subject to review and confirmation by the Legislature?

3. **Removal.**

Alternative 1. <i>The Executive Director serves at the pleasure of the Governor.</i>

Alternative 2. <i>The Executive Director shall hold office for [5 years] or until a successor has been appointed and has qualified. Any vacancy occurring shall be filled by appointment for the unexpired portion of the term. The Executive Director shall be removable for cause by impeachment or by address of the Governor to both branches of the Legislature, and Title 5, section 931, subsection 2, shall not apply.</i>

Alternative 3. <i>The Executive Director shall hold office for [5 years] or until a successor has been appointed and has qualified. Any vacancy occurring shall be filled by appointment for the unexpired portion of the term. The Executive Director shall be removable by the Governor for inefficiency, willful neglect of duty or malfeasance in office, [but only with the review and concurrence of the joint standing committee of the Legislature with jurisdiction over banking and insurance upon hearing in executive session, or by impeachment].</i>

Alternative H: State Agency, Advisory Board, Commissioner Appoints ED

[Remove definition of Board from § 7002(1).]

[Modify reference to Board in § 7008(3) (requiring Board or designee to submit budget for Exchange to Commissioner of PFR.)]

[Remove current Sec. 2 of proposed bill - amending 5 M.R.S.A. § 12004-G, sub-§ 14-H.]

[Remove current § 7004 establishing the Board.]

[Renumber sections subsequent to current proposed § 7005 and amend all references thereto.]

§ 7004. Executive Director

1. **Duties.** *The Executive Director is the head of the Exchange.*

2. **Appointment.** *The Executive Director shall be appointed by the Commissioner of Professional and Financial Regulation [and subject to review by the joint standing committee of the Legislature having jurisdiction over banking and insurance and to confirmation by the Legislature.] The position of Executive Director is a major policy-influencing position as designated in Title 5, section 934.*

Question: Should the Executive Director of the Exchange, if appointed by the Commissioner, be subject to review and confirmation by the Legislature?

3. **Removal.**

Alternative 1. *The Executive Director serves at the pleasure of the Commissioner of Professional and Financial Regulation.*

Alternative 2. *The Executive Director shall hold his office for [5 years] or until his successor has been appointed and has qualified. Any vacancy occurring shall be filled by appointment for the unexpired portion of the term. The Executive Director shall be removable for cause by the Commissioner of Professional and Financial Regulation.*

Alternative 3. *The Executive Director shall hold office for [5 years] or until a successor has been appointed and has qualified. Any vacancy occurring shall be filled by appointment for the unexpired portion of the term. The Executive Director shall be removable by the Commissioner of Professional and Financial Regulation for inefficiency, willful neglect of duty or malfeasance in office, [but only with the review and concurrence of the joint standing committee of the Legislature with jurisdiction over banking and insurance upon hearing in executive session, or by impeachment].*